

Remarks

Applicants provisionally elect claims 1-27 and 31-45 of Examiner's Group I for initial prosecution in this application with traverse. Applicants reserve the right to file continuing applications directed to the non-elected claims.

However, applicants also request that all claims be examined in the present application. First, the Office action is required to provide a substantive reason for supporting the requirement for restriction between Examiner's Group I and Examiner's Group II. In the present situation, the Office action states that the process as claimed can be used to make another and entirely different product such as a heat exchanger. Applicants disagree that the reason provided by the Examiner supports the requirement for restriction.

The claims of Examiner's Group I concern a method for "making a structure." These claims are not limited to making a particular device, such as a heat exchanger. Similarly, applicants' apparatus claims also are not limited to making a heat exchanger. For example, independent claim 28 is directed to "an intermetallic device." There is no limitation in claim 28 that it be a heat exchanger. Independent claim 29 is directed to a device "comprising a patterned intermetallic portion." Again, nothing in this claim limits the device to a heat exchanger. Finally, the remaining device claim, namely claim 30, specifically states that the device can be selected from a particular list of devices, some of which include "microthermal systems" "heat pumps" etc. These devices essentially are heat exchangers, and hence the reason provided by the Office action to support the requirement for restriction is not applicable to the claims as currently drafted. For this reason alone, applicants request that the restriction requirement be withdrawn and that all pending claims be examined together in the present application.

Furthermore, not only must there be a substantive basis for requiring restriction between two groups of claims, there must also be a substantial burden imposed upon the Examiner to examine both sets of claims in a single application. Examiner's Group II includes only three claims. Applicants submit that examining three additional claims does not impose a substantial burden on the Examiner.

Accordingly, for this additional reason applicants request that claims 1-45 be examined together in the present application. Alternatively, applicants would request that claims 28 and 29 be examined with Examiner's Group I.


The present application is in condition for substantive examination.

Respectfully submitted,

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